REPONSES TO BUSINESS RATES RETENTION REFORM AND RELATIVE NEEDS AND RESOURCES CONSULTATIONS

1 PURPOSE OF REPORT

1.1 To set out the Council's proposed responses to the Ministry of Housing, Communities and Local Government consultations on "Business Rates Retention Reform" and "A Review of Local Authorities' Relative Needs and Resources," which are appended to this report.

2 INTRODUCTION

2.1 The Ministry of Housing, Communities and Local Government (MHCLG) published its Business Rates Retention (BRR) Reform and "Review of Local Authorities' Relative Needs and Resources" consultations alongside the Provisional 2019/20 Local Government Finance Settlement on 13 December 2018.

2.2 The deadline for response to both consultations is 21 February 2019.

3 SALIENT INFORMATION

3.1 The consultation on Business Rates Retention seeks views on proposals for sharing risk and reward, managing volatility in income and setting up the reformed business rates retention system.

3.2 The reform of the BRR system will sit alongside wider changes to the local government finance system which central Government aims to introduce in 2020. This includes the work of the Fair Funding Review (FFR) for which a separate consultation entitled "A Review of Local Authorities' Relative Needs and Resources" was published at the same time.

3.3 The FFR aims to determine and introduce a new funding mechanism, including how to treat resources and any transitional arrangements, in time for the 2020/21 Local Government Finance Settlement. This will coincide with implementation of 75% Business Rates Retention, a business rate baseline reset and the 2019 Spending Review.

3.4 Further consultation is expected over the summer to firm up the proposals before they are confirmed in the 2020/21 settlement in autumn/winter 2019.

3.5 The Council's response to the consultations is set out at appendices 1 and 2 and follows engagement with key sector stakeholders such as the District Council's Network. The questions are largely technical in nature; however, there are some key underlying principles which are also being consulted on, for example, whether wider Local Authority funding sources such as fees and charges income should be taken into account in determining funding levels. The Council's proposed response states this proposal would act as a disincentive for local authorities to increase their income, which would be a perverse result since it would contradict the Government's approach of encouraging Councils to act more commercially.

4 RESOURCE IMPLICATIONS

4.1 There are no direct resource implications from responding to this consultation.

4.2 There is the potential for significant impact to individual local authorities' funding once the reforms are implemented; however, it is intended to put in place a transition mechanism to smooth the impact of affected authorities over a number of years.

5 LEGAL IMPLICATIONS

5.1 None.

6 EQUALITY AND DIVERSITY IMPLICATIONS

6.1 None arising directly from this consultation.

6.2 A further assessment will be made once the reforms are confirmed.

7 RECOMMENDATION

7.1 That the Council submit the responses to the consultations, as appended to this report.

Naomi Lucas

Naomi Lucas
Section 151 Officer

Background Papers:-

None.

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ROCHFORD DISTRICT COUNCIL: RESPONSE TO THE CONSULTATION ON BUSINESS RATES RETENTION REFORM

Question 1: Do you prefer a partial reset, a phased reset or a combination of the two?

Phased reset

Question 2: Please comment on why you think a partial/ phased reset is more desirable.

Rochford District Council broadly supports the phased reset approach, on the basis that it provides more stability and certainty for councils than a partial reset. However, this must be done in a way which continues to incentivise growth. However, we are extremely concerned that the government wants to push ahead with a full reset in 2020/21. The complexity of the changes being made to the local government finance system introduces a real risk of destabilising the system if all the planned changes are introduced in the same year. We therefore would support a one-year delay in the introduction of all changes to business rates, to allow the changes from fair funding and the spending review to bed in successfully. This would give MHCLG more time to work through the details of its business rates reforms, in particular the “alternative reform” which has emerged only recently.

Question 3: What is the optimal time period for your preferred reset type?

Our preference is for a longer time period for phased resets which increases the incentive effect on Councils and our ability to drive further economic activity for the benefit of the whole sector. We would support phasing over no less than a 6-year period that coincides where possible with periodic revaluations, but if this could be extended to 12 or 15 years then this would be welcome, as it would more fully represent the borrowing periods and investment timescales for councils driving economic growth.

Question 4: Do you have any comment on the proposed approach to the safety net?

A 95% safety net would be supported, in line with current 75% retention pilots. We also agree that other elements of the system should be set before deciding the level of the safety net. The safety net should be funded by proceeds from the central list and any levy rather than by a top-slice from local authorities.

Question 5: Do you agree with this approach to the reform of the levy?

Yes, we agree as it enables Councils to keep more of the growth in their local areas, which improves incentive effects. We also support continuation of the current arrangements whereby 100% business rates income is retained for renewable energy schemes, as this maintains an existing valuable incentive for Councils to promote renewable energy.

Question 6: If so, what do you consider to be an appropriate level at which to classify growth as 'extraordinary'?

150% of Baseline Funding Level

Question 7: What should the fall-back position be for the national tier split between counties and districts, should these authorities be unable to reach an agreement?

A national tier split should be seen as a fall back with a presumption of locally agreed tier splits.

Question 8: Should a two-tier area be able to set their tier splits locally?

Rochford District Council supports the idea that local areas should be able to determine what tier splits works most suitably for them

Question 9: What fiscally neutral measures could be used to incentivise pooling within the reformed system?

Rochford District Council continues to support pooling, but recognises that the proposed reforms to the levy would remove the incentive to pool that is currently present.

Question 10: On applying the criteria outlined in Annex A, are there any hereditaments which you believe should be listed in the central list? Please identify these hereditaments by name and location.

N/A

Question 11: On applying the criteria outlined in Annex A, are there any listed in the central list which you believe should be listed in a local list? Please identify these hereditaments by name and location.

N/A

Question 12: Do you agree that the use of a proxy provides an appropriate mechanism to calculate the compensation due to local authorities to losses resulting from valuation change?

We agree that, in the absence of a more direct measure, a proxy (which assumes that valuation changes not backdated to the start of the list are classified as physical changes) is the only viable option.

Question 13: Do you believe that the Government should implement the proposed reform to the administration of the business rates retention system?

In principle we agree that floating top up/tariffs will provide greater certainty on business rates income and therefore will enable better financial planning for local authorities.

However, in order to ensure a smooth transition to this new way of working, we advocate a one-year delay in its implementation, to 2021/22. This would also align it with the next planned revaluation. The proposed reform is currently untested and 2020/21 should be used to pilot this change with a range of local authorities.

Currently, there is a “perfect storm” of uncertainty for Councils in 2020/21 with changes to the funding formula and New Homes Bonus, so a delay would help to mitigate this risk.

We believe that, in order to ensure successful implementation, it is still necessary to explain the model more simply, operate the system in a transparent way so that it is evident how it compensates for appeals, be transparent about the level of business rates and growth kept locally and nationally and provide modelling to demonstrate it can achieve the original aims of further business rates retention, and compensate for appeals, without unintended consequences. We would like to see a worked example of how the alternative reform would work in a district/county area with real numbers that we can review.

Question 14: What are your views on the approach to resetting Business Rates Baselines?

Rochford District Council agrees in principle with the approach set out in the consultation paper i.e. using 2018/19 NNDR data uplifted by changes in the multiplier, subject to the detail of accounting adjustments for appeals and non collection being determined fairly.

Question 15: Do you have any comments at this stage on the potential impact of the proposals outlined in this consultation document on persons who share a protected characteristic? Please provide evidence to support your comments.

N/A

ROCHFORD DISTRICT COUNCIL RESPONSE TO THE CONSULTATION ON THE REVIEW OF LOCAL AUTHORITIES' RELATIVE NEEDS AND RESOURCES

Question 1: Do you have views at this stage, or evidence not previously shared with us, relating to the proposed structure of the relative needs assessment set out in this section?

Overall Formula

In relation to the current spending review period the NAO have recently confirmed "district councils will see a 13.9% real-terms reduction during this period. Districts are continuing to see reductions in their core spending power for the whole period, compared to other councils who are all seeing an increase. Overall since 2010/11 the median reduction for district councils has been just over 30%. This will need to be addressed in the next spending review period. District Councils have had to bear a disproportionate share of the reductions in local government funding and therefore it is crucial that the future funding formula reverses this trend and increases the spending power of District areas, for the benefit of our residents and businesses.

We broadly welcome a simpler, clearer more transparent population-based formula. We also support the use of population projections to set a `forward path' of funding baselines for a number of years as this will give greater certainty to councils when assessing their future funding. Population projections should take account not only of ONS projections, but other information such as Council tax base and NHS GP registrations.

However, some district councils face increased costs relating to deprivation. For example, Districts are facing rising demand for homelessness services and consequent costs, with a 34% increase in demand over the last 6 years according to the NAO. Where Councils have to deal with service issues that result from deprivation, such as housing and homelessness we would call for additional central government resources to address these issues, outside of the funding formulae.

Fixed Costs

We note that fixed costs contribute 1.4% to explaining variation in past expenditure included in the lower tier Foundation Formula. We view this evidence as a significant finding, particularly considering that the fixed costs element of the EPCS formula was limited to £325,000 and therefore would never be expected to explain a large proportion of the variance in expenditure. This is a particular issue for councils such as Rochford given that we are financially smaller but still have fixed costs from doing business that are common to all councils.

Analysis of the current formula shows that 99% of Districts will lose out from the removal of a fixed costs element. Removing fixed costs would therefore be unjustly unfair on District Councils as a whole and would particularly discriminate against councils with smaller populations who are still expected to provide the same level of support for democratic services and elections.

We note that many respondents to the previous consultation advocated a fixed costs element in the formula. The MHCLG view that this would "add unnecessary complexity" is not persuasive, since the current fixed costs element is actually one of the simpler parts of the present formula and readily understandable by both the public and councils. MHCLG has not provided any evidence to support its assertion that "fixed costs… are already identified through the wider assessment of needs" and would need to demonstrate how the substantial fixed costs of smaller authorities are adequately reflected in the proposed formula.

Prevention

The work of District Councils in prevention, which saves money for social care and the NHS, is not recognised through the formula. For example, Districts' role as housing authorities is fundamental to the determination of health and wellbeing. We recognise that it would be difficult to include this in a formula and therefore we support the District Council's Network call for an additional 3% prevention precept for all District Councils. A 3% precept would reflect the key role that districts play in prevention and demand reduction for the wider public sector across the country. This is in addition to existing council tax arrangements for district councils. In unitary areas, unitary councils are able to apply the adult social care precept in addition to the general Council Tax precept, but this option is only available to counties in district/county areas, which creates an imbalance in those areas.

Transition

We would support a fixed but sufficiently long transition period for those Councils that are worse off under the new formula, which should match the usual length of a Spending Review period, i.e. 4 years. There is a particular need for transitional protection in 2020/21 as Councils will have very little notice of their new allocations and will not have time to make thought through and sustainable adjustments to their budgets. There is a potential "perfect storm" of uncertainty for District Councils given that there could also be changes to business rates and New Homes Bonus in 2020/21, which underlines the need for a proper transition.

Transparency

District councils need to know that all the factors they have suggested that affect their need to spend have been tested as part of the work on the formula. If some of these factors have been excluded there should be an explanation as to why that is the case. In particular, this consultation must be accompanied by a much more detailed technical note about the exact evidence used to arrive at each view on the relative needs assessment. This evidence should include the cost drivers tested, the expenditure data used (including reference years, whether total spending or spending per head was measured, and whether it was deflated for area cost differences), and regression/correlation analysis results.

Question 2: What are your views on the best approach to a Fire and Rescue Services funding formula and why?

No comments.

Question 3: What are your views on the best approach to Home to School Transport and Concessionary Travel?

No comments.

Question 4: What are your views on the proposed approach to the Area Cost Adjustment?

We support the proposed approach to the Area Cost Adjustment which gives greater granularity through being applied at a district level and takes account of costs arriving through longer journey times in both urban and rural areas as well as recognising the additional cost pressures of those districts with high rateable values and labour costs

Question 5: Do you agree that the Government should continue to take account of non-discretionary council tax discounts and exemptions (e.g. single person discount and student exemptions) and the income forgone due to the pensioner-age element of local council tax support, in the measure of the council tax base? If so, how should we do this?

We agree. Councils should not bear the costs of national Government policy decisions. We propose the use of council taxbase statistics returns to enable the calculation to be made.

Question 6: Do you agree that an assumptions-based approach to measuring the impact of discretionary discounts and exemptions should be made when measuring the council tax base? If so, how should we do this?

The starting point must be that no discretionary discounts or premiums (with the exception of local council tax support for working age claimants) should be adjusted for, with councils bearing the full cost or receiving the full income from the use of these powers..

Question 7: Do you agree that the Government should take account of the income forgone due to local council tax support for working age people? What are your views on how this should be determined?

We agree. The Government should use a formula-based approach to estimate the likely demand for local council tax support schemes for working-age households, which takes account of deprivation. As a result, the potential demand rather than actual policy decisions would be adjusted for, with individual councils covering the costs or retaining the savings from any deviation. This is in line with the principle that financial costs and benefits of local decisions should be retained in full by councils. We propose the use of council taxbase statistics returns to enable the calculation to be made.

Question 8: Do you agree that the Government should take a notional approach to council tax levels in the resources adjustment? What are your views on how this should be determined?

We agree that a notional approach to council tax levels should be used in the resources adjustment since this would mean that two local authorities with similar tax bases and a similar assessment of relative needs would receive broadly similar baseline funding levels, irrespective of their actual council tax levels.

Question 9: What are your views on how the Government should determine the measure of council tax collection rate in the resources adjustment?

We strongly support the use of a national average collection rate which is fair to all Councils. There would be a clear perverse incentive in using actual collection rates as this would reduce resources for high performing councils. Districts are, on average, the most efficient authorities at collecting Council Tax. In 2017/18, the average collection rate for shire districts was 97.9%, compared to 96.3% for all other billing authorities. Therefore, their efficiency in collecting Council Tax should not be penalised through a perverse incentive.

Question 10: Do you have views on how the Government should determine the allocation of council tax between each tier and/or fire and rescue authorities in multi-tier areas?

For the sake of fairness and transparency Rochford District Council supports the use of national percentage splits in calculating the measure of Council Tax to be used in the Resources adjustment.

Question 11: Do you agree that the Government should apply a single measure of council tax resource fixed over the period between resets for the purposes of a resources adjustment in multi-year settlement funding allocations?

Rochford District Council supports a single measure of council tax resource fixed over the period which would reward local authorities who build more houses and grow their tax base over time as they will be able to retain that growth in their tax base.

Question 12: Do you agree that surplus sales, fees and charges should not be taken into account when assessing local authorities' relative resources adjustment?

Yes, we agree that taking wider income into account would act as a disincentive for Councils to expand their income at a time of reduced funding, which is a perverse result. It would be contrary to the government's approach of encouraging councils to generate more income through being more commercial.

Question 13: If the Government was minded to do so, do you have a view on the basis on which surplus parking income should be taken into account?

We support a redistribution of windfall income at a certain level. This should be based on historic RO data submitted to MHCLG. It would be reasonable for councils to be allowed to retain some surplus from their investment in this area and we therefore propose that any adjustment should only be applied where a council is generating a net surplus above £2 million per year and should be on the surplus above this figure, which will ensure that the adjustment is targeted most effectively.

Question 14: Do you agree with the proposed transition principles, and should any others be considered by the Government in designing of transitional arrangements?

We agree with these principles. We would support a fixed but sufficiently long transition period for those Councils that are worse off under the new formula, which should match the usual length of a Spending Review period, i.e. 4 years. We support the proposal that reforms to the business rates system should be delayed by one year, until 2021/22, which would assist Councils with transition by avoiding the “Big Bang” approach currently being applied, which could lead to a “perfect storm” of changes for Councils.

We would add that there is a particular need for transitional protection in 2020/21 as Councils will have very little notice of their new allocations and will not have time to make thought through and sustainable adjustments to their budgets. The later the timing of the Spending Review, the greater will be the need for substantial transition in the first year.

We consider that the level of funding changes means that there is now an even stronger case for the removal of the current referendum limits for all councils, so that they can manage more of the financial impact themselves.

Question 15: Do you have views on how the baseline should be constructed for the purposes of transition?

The transition should be based on actual ongoing funding levels. We therefore propose that the baseline must include income from business rates, with growth up to and including 2019/20, and from New Homes Bonus in 2019/20. The baseline should not include any adjustment for Negative Revenue Support Grant which should be treated as zero, since government has accepted that negative RSG was unfair and it has had to be eliminated, so it does not come within actual funding levels. Equally those councils that are in receipt of revenue support grant should have this fully factored into their baseline.

Question 16: Do you have any comments at this stage on the potential impact of the proposals outlined in this consultation document on persons who share a protected characteristic? Please provide evidence to support your comments.

No comments.